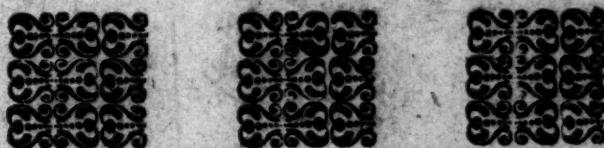


THE
Religious Constitution *1/2 Quarto*
OF
COLLEGES,
Especially of
YALE-COLLEGE
IN
NEW-HAVEN
In the Colony of
CONNECTICUT.

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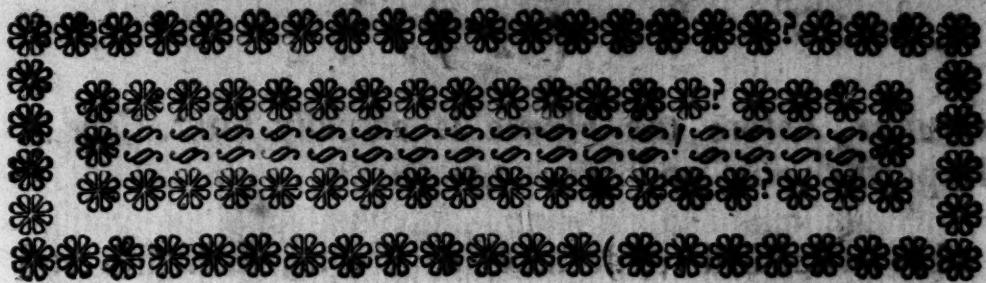
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ANSWER SHEET





THE
Ecclesiastical Constitution
OF
COLLEGES.

THE original End, and Design of Colleges was to Instruct, Educate, and Train up Persons for the Work of the Ministry. The Council of Cabilone, A. D. 813. Decreed, *That the Bishops should Constitute Schools, or Colleges, in which the Doctrines of Scripture should be taught, and such may be Educated, of whom it may be deservedly said, by the Lord, Ye are the Salt of the Earth; and who may teach the People, &c.* Harduini Collectio Conciliorum, Vol. 4. P. 1032. A House with the Appendages, in which Students live, and study, under the Instruction and Government of a President, &c. is called a *College*. And if such a Political State is formed, or even designed to be formed, it is called a *College in Reputation*,

puation, before the House is actually built. Coke 4.
Reports 106, and 10, 33.

He who first undertakes to Form, Establish and Order a College, and gives something for the Beginning of it, is called the Founder, *Woods Institutes*, p. 113. Coke 1. Rep. 33. Who commonly declares some special Design, and make some *Statutes* and *Orders*, for the future Regulation of it; which are always to be *inviolably*, and *sacredly* observ'd, by the successive Governors. My Lord Chief Justice Holt says, *That Colleges, and Hospitals, are wholly subject to the Laws, Rules, Statutes, and Ordinances which the Founder ordains; and to the Visitor whom he appoints.* Raymonds Reports, Vol. 1. p. 8. Phillips's v, Berry, 1694. And so says Bishop Stillingfleet, in his Speech in the House of Lords. Vol. 3 p. 878 *Statutum Templariorum.* 17 Edward 2. says, "That the Godly and Worthy Will of "the Givers, (i. e. The Founders) is "always to be observ'd, perform'd and religi- ously executed." See Coke 8 Rep. 132. *Pultons Statutes.*

When King James 2. commanded the Fellows of *Magdalene College*, to choose Mr. Farmer, for their President, they refused to do it; because he was not qualified, according to the Statutes of the Founder; which, they say, they were bound in Duty, and Conscience to observe; and this Point of Law is so sacred, that they were justified, even in Disobedience to the King. *Complete Hist. of England.* Vol. 3. Coke 11 Rep. 73.

If the Founder of a College, acts in his private Capacity, then his *Heirs*, and if in a public Capacity, or Body politick, then his or *their Successors* are called *Visitors*; and have Power to see that the Design, and Statutes of the *Founder*, are observ'd. *Jacob's Law Dict. Woods Instit.* p. 115.

A Number of Colleges, together under one common Government, by a Chancellor, is called a University. Yet, one large, and well governed College, having no other in the same City, has the Name, and Privileges of a University; as in *Dublin*, and *Glasgow*.

Colleges have been Established in the present Form, about 500 Years. Before that Time, Persons were ordinarily trained up for the Ministry, by the Clergy, in the Monasteries; which in some Places, by degrees, grew up into Colleges. They being of a religious Nature, and Design; were for many Years, established by Powers, and Charters, granted by the Ecclesiastical Authority. Bishop Stillingfleet says, *they were at first set up by the Bishops*; as appears by many *Decrees of Councils*, about the Time of Charles the great; who was a great Patron of Learning. See *Harduini Collect. Concil.* Vol. 5. p. 94, and 499. *Stillingfleet's Work*, Vol. 3. p. 883.

None were admitted into any Office, of Instruction, or Government, but *Ministers*; and few to be Students, but such as were probably design'd for the Ministry. After some Years, Charters were granted by the civil Authority, with additional Powers.

Powers, and Privileges. And since the Reformation, it has been resolv'd, that the Constitution of Colleges, depends on the civil Powers, tho' in the Hands of Ecclesiastical Persons, for Spiritual Purposes. Bishop Stillingfleet p. 884, says, a Corporation, takes it's Denomination, from the greater Number ; and therefore *the Universities, are esteemed, Parts of the Ecclesiastical Body.* So Dr. Ayliff Hist. University of Oxford, Vol. 2. p. 52. Every College, or University, is a *distinct Corporation, or Government, by it self,* under the supreme civil Authority, and hath Power to choose their own Officers, and to make their own Laws, and *have Jurisdiction in all Causes Ecclesiastical, and Civil,* (except Felony, Mayhem, and Freehold,) *where any Member of the University is concern'd.* Woods Instit. p. 548, Jacobs Law Dictionary. Bishop Stillingfleet p. 883. The Vice-Chancellor is vested with an *Episcopal Power,* over the University ; and is Subject, to no Ecclesiastical Authority, but the Arch-Bishop of Canterbury. Woods Inst. 549. *Annals of University College, 351.*

Colleges, are *Religious Societies,* of a Superior Nature to all others. For whereas Parishes, are Societies, for training up the *common People* ; Colleges, are *Societies of Ministers,* for training up Persons for the Work of the *Ministry.* And therefore *all their Religious Instructions, Worship, and Ordinances,* are carried on, *within their own Jurisdiction, by their own Officers, and under their own Regulation.* As most fully appears, by the Statutes of the University of Oxford, at large, Titulo. 16. containing various Orders, and Regulations, for that Purpose.

Jacob's

Jacob's Law Dictionary, under the Word *Chappel*, says " That the particular Colleges, in the Universities, have Chappels belonging to them, which are consecrated, and the Sacraments are administered in them, yet they are not Subject to the Bishop, but to the Founder. " See also Fullers Hist. of the University of Cambridge p. 33, 38, 80, 140, 155.

The Universities, in Scotland, have as great, or greater Privileges, than those in England. Chamberlain's present State of Great-Britain, p. 14. in the latter End, says, that they enjoy all the Privileges, Liberties, Immunities, and Exemptions enjoyed by any University whatsoever ; particularly, the Universities of Paris, and Bononia. And that there are Eight Chaplains, to Officiate in the Chappel, of the University of Aberdeen. See also p. 434. Their Worship, is wholly under their own Regulation, and they are not subject, to any particular Parish, or Presbytery ; but only to the general Assembly, of the Church of Scotland ; to which, they send a President, or Professor, in the Quality of a Minister, as Presbyteries do. p. 32.

Religious Worship, Preaching, and Instruction on the Sabbath, being one of the most important Parts, of the Education of Ministers ; it is more necessary, that it should be under the Conduct, of the Authority, of the College, than any other Part of Education. The Preaching, ought to be adapted, to the superior Capacity, of those, who are to be qualified, to be *Instructors of others* ; and upon all Accounts *Superior*, to that, which is ordinarily

dinarily to be expected, or indeed requisite, in a common Parish.

There are many different Principles, in Religion, and Kinds of Preaching, which, when they are in any Degree faulty, cannot always be easily remedied, by Complaint to any other Authority. And therefore, every *religious Society*, naturally chooses, as far as may be, to have, the Nomination of their own Minister. And this is much more necessary in a *College*, where the Preaching, is of such general Importance, to a whole Country; and such special Care, should be taken, that it be, upon all Accounts, of the *best Kind*. And it cannot be reasonable, nor safe, that any particular Parish, especially, that which happens to be the nearest to a *College*, should appoint the Minister for it.

By Statute 3 *James 1. c. 5. 1 King William*, and 13 *Ann, c. 14.* The Universities, in some Cases, are empowered, to nominate Ministers, for particular Parishes; but no Parish hath Power to nominate a Minister, for a *University*; this being always done, by the University it self; Unless, perhaps, he may be sometimes nominated, by him, who makes a Donation for his Support, with the Approbation, of the University.

And where, as it generally happens, there are sundry Places of Worship, in the City, where a College is; if the Students should disperse to all, and every one of them, this would break up all order in the Society, and defeat the Religious Design, and Instructions of it.

The

The University of Oxford, (as appears by their own Laws,) allow none of their Members, to go from their own Churches, Chappels, or Places of Worship, to any other Church, on Penalty of corporal Punishment, on all Undergraduates ; and Three Shillings, and Four-pence Sterling, on all others. Stat. Univers. Oxford. Tit. 16. Sec. 10.

But sometimes, particularly on Easter Sunday, the whole University, does not meet together, but the Members, of each College, meet by themselves ; and have a Sermon, and the Sacrament, in their own particular Chappels. Sec. 2.

And not only the Colleges ; but all the larger Hospitals, in Great Britain ; have their distinct Chaplains, and Worship. See, present State of Great Britain, in the Lists. It being a Maxim, which runs through all moral Nature ; that, every distinct Society, Founded for Religious Purposes ; is, or at least may be, a Distinct worshipping Assembly.

YALE-COLLEGE in New-Haven ; does not come up, to the Perfection, of the Ancient Established Universities, in Great Britain ; yet, would endeavour, to Imitate them, in most things, as far, as its present State, will admit of.

It was FOUNDED, A. D. 1701. By Ten Principal Ministers, in the Colony of CONNECTICUT ; upon the Desire, of many other Ministers, and People in it ; with the Licence, and Approbation, of the General Assembly. Their main Design, in that Foundation, was to Educate Persons, for the

Ministry of these Churches, commonly called Presbyterian, or Congregational, according to their own Doctrine, Discipline, and Mode of Worship.

The first Act, or Charter, of the General Assembly, is predicated, " Upon the Desire of several well dispos'd Persons, of their sincere Regard to, and Zeal for, the Upholding, and Propagating, the Christian, Protestant Religion ; by a Succession, of Learned, and Orthodox Men ;

" That Youth, thro' the Blessing of God, might be fitted, for Public Employment, in Church, and State ;

" And that, all due Encouragement, might be given, to such pious Resolutions ; and that so necessary, and Religious an Undertaking, may be Forwarded ;

" Full Liberty is given, to the said Ten Ministers nominated, (and to their Successors, chosen by themselves) to F. O. U. NYD, Erect, Order, and Govern, a Collegiate-School ;

" In all Ways, and Manners, and by such Officers, appointed by them, as shall, according to their Discretion, be most conduciye, to attain the Ends aforesaid. "

And in the Charter 1745, it is particularly mentioned ; " That, they shall have Power to choose,

" Professors,

" And

“ And all other Officers, usually appointed in
“ Colleges, or Universities.

The Act, 1753, has this Preamble ; “ Whereas,
“ one principal End, proposed, in Erecting, and
“ Supporting, Yale College ; was, to Supply the
“ Churches of this Colony, with a Learned, Pious,
“ and Orthodox Ministry ; to which Purpose, it
“ is requisite, that the Students of the said College,
“ should have the best Instructions, in Divinity ;
“ and the best Patterns of Preaching, set be-
“ before them. ”

“ And whereas, the Setling, a Learned, Pious,
“ and Orthodox, Professor of Divinity ; would
“ greatly tend, to promote, that good End, and
“ Design. ”

The Founders, at their first Meeting, in 1701 ;
make, a *Formal Foundation*, of the College, by an
Express Declaration ; and giving, a *Number of Books*, for a Library ; and declare, That, “ Their
“ End, and Design in it ; is, to propagate, the
“ blessed, Reformed, Protestant Religion, in the
“ Purity, of it’s Order, and Worship. And pro-
ceed, to give sundry Rules, and Orders, particularly,
“ That the Students, should be well Instructed,
“ in the Principles, of Religion ; and grounded, in
“ polemical Divinity. ” Particularly Prescribing,
what Books of Divinity, they should Recite ; and
no other, but such, as the Trustees should order ; and,
that special Care, should be taken, in the Education,
of the Students, not to suffer them, to be Instructed,
in any different Principles, or Doctrines ; and that,

all proper Measures, should be taken, to promote, the *Power, and Purity, of Religion*; and the *Peace, and best Edification, of those Churches*. And particularly Order, that the Students, should attend, *Morning, and Evening Prayers, and other religious Exercises*; and especially, the *Worship of God, on the Lord's Day*; on Penalty, not exceeding, Six-pence Sterling.

The present Governors, of the College; esteem themselves, bound by *Law*, and the more sacred *Ties of Conscience, and Fidelity to their Trust, committed to them, by their Predecessors*; to pursue, and carry on, the pious Intention, and Design, of the *Founders*; and to improve, all the *College Estate, descended to them*, for that purpose. And therefore, about seven Years ago; began, to lay a Fund, for the Support, of a *Professor, of Divinity*, in the College; and being, of late Years, more sensible, of the *Necessity* of it; from, the unhappy, divided Circumstances, of *New-Haven*; and having receiv'd, some large Donations; from the Honourable *Mr. Livingston, and Mr. Clarke*, for that Purpose; and Leased out, some of the College Lands; have determined, to settle, such a Professor; as soon, as, by Leasing more of the said Land, or other ways, a competent Support, can be obtained.

In the mean Time, they have desired, the *President*; with some Assistance, from themselves, and others; to carry on the Work, of a Professor, of Divinity; by Preaching, in the College Hall, every Lord's Day. Being hereunto, sufficiently warranted, from, the original Nature, Design, and Practice of Colleges,

Colleges, and Universities ; (which are, superior Societies, for Religious Purposes ;) and, the several special Clauses, in the Acts, of the General Assembly ; That so, the Students, may have the Advantage, of such Preaching, and Instruction, as is best adapted, to their Capacity, State, and Design.

The Governors, of the College, cannot, consistent, with the Trust committed, to them ; give up, the ordinary, public Instruction, of the Students ; especially, in Matters of Divinity ; to any, but their own Officers, and Substitutes. For, they can have, no sufficient Security, as such Governors, that others, who are not, of their Nomination, and under their Authority, will Teach, or Instruct, according, to the Design, of the *Founders* : and, if they should deviate from it ; the Governors, could have, no Authority, to prevent it. And, upon that account, it is more necessary, that the Governors, of the College, should nominate the Preacher to it, than any other Officer, or Instructor.

Particularly, it cannot be reasonable ; that, either of the three, religious Assemblies, in *New Haven*, should choose, a Minister, for the College ; or that, the College, should be obliged, to attend upon such Preaching, as they, or either of them, should choose. They would not allow, that the College, should choose a Minister for *them* ; much less, is it reasonable, that they, should choose a Minister, for the College ; which is a religious Society, of a superior, more general, and more important Nature.

This

This would be, to subject the College, to a Jurisdiction out of itself; in the most important Point, of it's Institution, and Design. And no Society, or Body Politick, can be *safe*, but only, in it's having, a Principle of self-Preservation; and a Power, of Providing, every thing necessary, for it's own Subsistence, and Defence.

Indeed, as the College, receives it's Charter, and Part, of it's Support, from the *Government*; it is necessarily, *dependent* upon them; and under their Direction; and must choose, such a Minister as is agreeable to them; or otherwise, they may, withdraw their special Protection, and Support. And it cannot, reasonably, be suppos'd; that, the General Assembly, would neglect, this part, of their Superintendency; and suffer it, to be exercised, by any, particular Parish. For, by this means, it might easily happen, that the College, might be subjected, to such Preaching, as would be contrary, to the Minds, of the Generality, of the Colony; as well, as, the Design, of the *Founders*.

Some indeed, have supposed, that, the only Design of Colleges, was to teach the Arts, and Sciences; and that Religion, is no part, of a College Education: And therefore, there ought to be, no religious Worship upheld, or enjoined, by the Laws of the College; but every Student, may Worship, where, and how, he pleaseth; or, as his Parents, or Guardian, shall direct.

But, it is probable, that there is not a College, to be found upon Earth, upon such a Constitution; without any Regard, to Religion. And we know, that Religion,

Religion, and the Religion of these Churches, in particular ; both, as to *Doctrine*, and *Discipline*, was the main Design, of the *Founders*, of this College ; (agreeable, to the minds, of the *Body*, of the *People*;) and, this Design, their Successors, are bound in Duty, to pursue. And indeed, Religion, is a matter, of so great Consequence, and Importance ; that, the Knowledge, of the Arts, and Scien-*cies*, how excellent soever, in themselves, are comparatively, worth but little, without it.

It has been also Supposed, that every Student, might be obliged, to attend, upon *some Religious Worship*, where he shall see cause ; or where, his Parents may order, or permit ; and that, a Monitor, may be appointed, in each Assembly, in the Town ; with Penalties, for non Attendance. But, to those, who understand, and consider, the Nature of College Goverment ; such a Scheme, plainly appears, Impracticable. It is found, by Experience ; that no Undergraduate Monitor, can be fully depended upon ; and that, it is absolutely Necessary, for the Governors, of the College, to be present ; and strictly observe, the Attendence, and Behaviour, of the Students ; with their *own Eyes*. And, when any Parent, puts his Child to School ; to Apprentice ; or, into any other Family ; or Society, whatsoever, he *resigns up*, the Exercise, of his parental Goverment ; so far, as relates to, the Constitution, and Order, of that Society. And no Parent, can have a *Right*, to put his Child, to be a Member, of any Society ; and then, order him, to *break the Laws*, and Rules of it : for, this would be destructive,

to, the very Nature, and Fundamental Constitution, of all Societies.

And, if Parents, have a *Right*, to order, what Worship, their Children shall attend, at College ; it would take, the Power, wholly out, of the Hands, of the Authority, of College, as to matters of Religion ; and there may be, as many Kinds, of Religious Worship, at College ; as there are, different Opinions, of Parents.

And, if Parents, give the *Law* ; they must also, affix the *Penalty* ; and indeed, *inflict it themselves*. But Parents, at a Distance, cannot, Govern their Children, at College ; neither, is it practicable, that, they should give, such, a just *System of Rules*, as the Authority, of College *can*, or *ought*, to put in Execution.

For, we may suppose, for Instance ; that, there may be, an Assembly, of *Jews*, or *Arrians*, in *New Haven* ; and then, the Authority, of College, may be obliged, to punish, the Students, for not attending, such a Worship, as they esteem, to be *worse than none* ; and such, as they are oblig'd, by the Statutes, of the *Founders*, not to permit, the Students, to attend upon.

It has been said ; that, *Liberty of Conscience*, ought, to be allowed to all ; to Worship, as they please.

Upon which, it has been considered ; that, the College acts, upon the Principles, of *Liberty, of Conscience*,

Conscience, in the *fullest Sense*; and suppose, that any Man, under the Limitations of the Law; may Found a College, or School, for such Ends, and Purposes; and upon such Conditions, and Limitations, with Respect to those, who are allow'd, the Benefit of it, *as be in his Conscience*, shall think best. And that *his Conscience*, who has the Property, of a Thing; or gives it, upon Conditions; ought to Govern, in all Matters, relating to the Use, of that thing; and not, *his Conscience*, who is allowed, to take the Benefit; who, has *no Right* to it, but according to the *Will*, and Conditions of the Proprietor, or Donor. And Liberty of Conscience in, him, who is allow'd, to take the Benefit, extends no further, than to determine, whether he will accept it upon those Conditions. And to challenge the Benefit, without complying with the Conditions, would be, to rob the Proprietor, (or Feoffee in Trust,) of his Property; and Right of Disposal.

The great Design, of Founding this School, was, to Educate Ministers in our own *Way*; and in order to attain this End; the *Founders*, and *their Successors*, apprehend it to be necessary, that the Students, should ordinarily attend, upon the *same Way of Worship*: and should they give up, that Law, and Order; the College would serve Designs, and Purposes, contrary to that, for which it was *originally Founded*: which, in *Point of Conscience*, and Fidelity, to their Trust; they *cannot permit*. And in this Point, the College, Exercises, no kind of *Power*, or *Authority*; but only that, which Results, from the *natural Liberties*, and Privileges of

all free, and *Voluntary Societies* of Men ; which is to determine, *their own Design*, amongst themselves ; and the Conditions, of their own Favours, and Benefits to others.

Yet the Governors of the College, have always freely admitted, Protestants, of all Denominations, to enjoy the Benefit, of an Education in it ; they attending upon, (as they always have done,) our Way of Worship ; while they are there.

It has also been said ; that, all the Students, ought to attend, the Worship, of the Church of *England* ; or so many of them, as shall see Cause ; or, as their Parents shall order, or permit.

That, the Church of *England*, is the *Established Religion*, of this Colony ; and that those, who do not conform to it, are *Schismatics*.

Upon which, it has been consider'd, that the *Act of Parliament*, in the *Common Prayer Book*, for the *Establishment*, of the Church of *England*, is expressly limitted, to *England*, and *Wales*, and the *Town of Berwick, upon Tweed*. And, it is, a well-known Maxim in the Law ; that the *Statutes of England*, do not extend to the *Plantations* ; unless, they are *Expressly mentioned*.

About the Reign of *Henry the Eighth*, we find sundry *Statutes*, relating to Religion, Navigation, &c: where, the Extent of them, is declared in those Words ; *the Realm of England*, and *the Dominions, or Territories, thereunto belonging*. And so it is, in the

the *Act of Union*. But these Words, were designed, only, to comprehend, the *Isle of Man*, *Jersie*, and those *small Islands*, *near England*; but were never Extended so far *Ireland*; much less to the *Plantations*.

After the *Plantations* were Settled; when any *Act*, was designed for them, these Words were used, viz. *Plantations in America*, *Dominions in America*, or *beyond Seas*, or some such extensive Terms. And no *Statute*, has yet been produced, which has been actually extended to, and executed in, the *Plantations*, by Virtue of those Words, *Dominions*, or *Territories thereunto belonging*: And, it is presum'd, that no such *Act*, can be produced.

It has also been said; that, *Governor Yale*, and *Bishop Berkley*, who were *Church Men*, made large *Donations*, to this *College*.

Upon which, it has been consider'd; that, when any *Donation* is given, after the *Foundation* is laid, the *Law* presumes, that it was the *Intention*, of the *Donors*, that their *Donations*, should be improved, according, to the *Design*, of the *Founders*. The *Law* presumes, that every *Man*, knows the *Law*, in that thing, wherein he *Acts*: * And since, by *Law*, the *Statutes* of the *Founders*, cannot be altered, † it presumes, that the *Donor*, had not any *Design* to do it. And there is not, the least

* *Jacobs Dīſt.* + *Woods*, 113.

Reason to suppose, that the Governor, or Bishop, intended, or Expected, that, upon their Donations, any alteration should be made, in the Laws of the College ; or any Deviation, from the Design, of the Founders, towards *the Church of England*, or any other way.

If it was so ; it seems, as if they intended, to *Buy* the College, rather than, to make a *Donation*, to it. And if there was Evidence, that they made their Donations, upon that *Condition* ; the College, would *Resign* them back again.

And since, there is not, the least Reason to suppose that, they, expected, or desired, that, upon their Donations, any Alteration should be made, in the Laws of College ; we see no Obligation to do it, in Point of *Gratitude*.

But the Incomes, of the Farm, at *Rhode-Island*, given by the Bishop ; were appropriated, (not ~~only~~ to any religious Use,) but to the best Scholars in *Latin*, and *Greek* ; which Appropriation, (being accepted of, upon that Condition,) ought to be sacredly, and inviolably observ'd ; as well as, the Design of the Founders.

Yet, we have a just Sense, of the Generosity, of those Gentlemen ; and for that, and many other Reasons, are Willing to do, all that we can, to gratify, the Gentlemen, of the Church of England ; consistant with the Design, and Statutes, of the Founders ; and particularly, have given Liberty

berty, to those Students, who have been educated, in the Worship, of the Church of England ; and are, of that Communion ; to be absent, at those Times, when the Sacrament is Administred, in that Church ; and upon Christmas ; and, at some such other Times, as will not be, an Infraction upon, the general, and *standing Rules*, of College.

It has been further said, that there are, a Number of Church Men, in this Colony ; who, in the annual public Taxes, contribute something, towards the Support, of the College.

Upon which, it has been consider'd ; that, when a Community, are jointly, at some public Charge ; it is equitable, that the Benefit, of each Individual, should be consulted, so far, as it is consistant, with the general Design, and Good of the whole, or the Majority. And tho' it is impossible, that such a Benefit, should be Mathematically proportioned, to each Individual ; yet this College, has educated, as many Episcopal Ministers, and others, as they desired, or stood in need of ; which has been a sufficient Compensation, for their Paying, about, a Half Peny Sterling, per Man ; in the annual Support, of the College.

And, it may still continue to be, as serviceable, to the Church of England, as it has been, if they please ; for the Orders of it, remain in Substance, just the same.

It may further be consider'd, that this College, was Founded, and in a good measure, Indowed,
 many,

many Years, before there were any Donations made, by Church-Men ; or so much, as one Episcopal Minister, in the Colony. And if Mens contributing, something, towards the Support of the College ; gives, them a Right, to order, what Worship, their Children shall attend upon, while at College ; it gives, the same Right, to Parents, of all other Denominations ; which to admit, as was before Observ'd, would defeat the Design of the *Founders* ; and destroy, the religious Order, of the College ; which ought, *sacredly*, to be observed.

